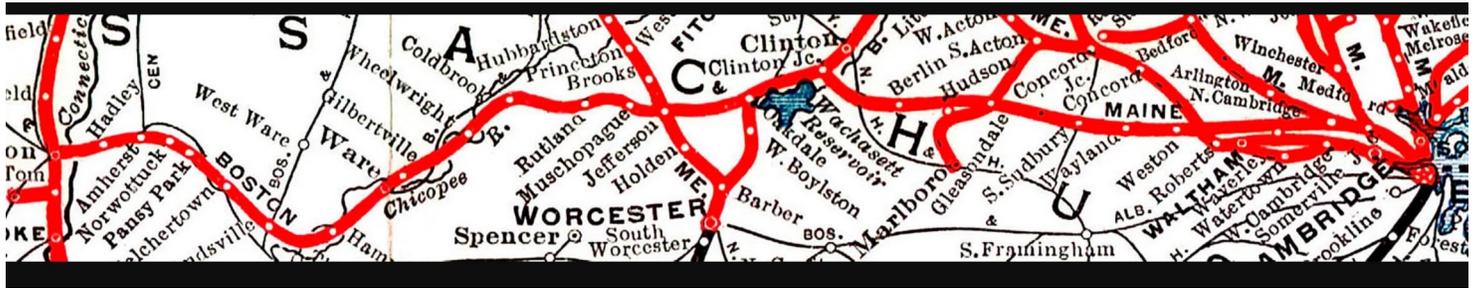


Comments by Craig Della Penna for all three volumes of the
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on how to move this complicated project forward.



VOLUME 1: BELCHERTOWN

The complications in Belchertown are mostly related to **residential** property owners acquiring small portions of the corridor many years ago—before 161 C reporting requirements. In recent years a Belchertown-based, “Linear Thinking” local land trust was built and through strategic patience they have acquired—and gifted to the town—large portions of the RoW. The narrative submitted by Dan Fitzpatrick—one of the founders of the linear thinking, Belchertown Land Trust— will be useful as a “road-map” in reassembling the corridor on the northern and western end of the corridor there.

What needs to be done there is pretty simple really.

- * An emergency, quick-action fund through an agency within EOEAA needs to be set up with perhaps \$500K and have it ready to use by communities—all along the corridor to allow for a quick purchase of corridor that comes onto the market to be sold. The communities can then purchase the segment of corridor and agree to payback either all or some agreed upon portion of the state investment.

VOLUME 2: BONDSVILLE TO RUTLAND

The complications in the Bondsville section of Palmer, Ware, and New Braintree are mostly related to **commercial** entities. For example:

- * The railroad in Bondsville isn’t formally abandoned and it still has track in-place. However, there isn’t any hope of a viable rail-served user coming since a plan for an intermodal facility at a defunct airport didn’t get approved. CSX didn’t want this to happen and everyone in the RR industry knew that. It was a non-starter from the very beginning. More recently the land instead became a large solar array. The owner of the dormant track is the owner of the railroad that operates as a leasee on state-owned track from Palmer to So. Barre. His interest in the dead RR in Bondsville should be bought out by the state. He is under-capitalized and will welcome the infusion of cash to better sustain his existing business. Also, it should serve as a warning that this railroad has at least three and maybe more owners in the past 10 years. This churning and burning-out of operators is a common occurrence on state-owned corridors in both Massachusetts and Vermont. The current owner of the MCER will likely welcome the sale in Bondsville. And I might add, it’ll likely be cheaper for the state to buy the dead corridor, sell the track for scrap, and fix the bridges for trail use as opposed to the investment for rail use. Never mind the reality that a higher-and-better outcome for the community will obviously be the trail.

- * In Ware we have the same RR, the MCER operating a plastic pellet transloading facility taking material from railcars to trucks. This facility though busy, does have room to accommodate the trail coming across the currently out of service rail bridge and then alongside the transload and then crossing to the east, at the northern end of the transload. There are a number of bike-ped crossings of a railroad protected by crossing arms and warning lights/bells around the country and Mass DOT won’t need to be ‘inventing the wheel’ so to speak.

- * At the Kansaki Paper Company, a route through neighborhood streets will work and successfully get past this impediment.

- * At the north and east end of Ware at Church Street, the East Quabbin Land Trust who operates in the area is developing the MCRT trail, but it seems that the owner of a segment here, National Grid isn’t being as helpful as they might be. Or let me say it this way— as helpful as they are in similar circumstances in New York State. Since National Grid owns more miles of former RR corridor in the state

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than private RRs do and since they participated in the re-write of the state's Recreational Use Statutes—and showed up for the photo-op with then Governor Patrick in 2009, I think they should be invited-in as a stake holder on the Governor's Trails Team.

* In New Braintree, there is a small, 1950s era, general aviation airport recently sold from the Tanner/Hiller families to a Chinese company. I'm not really sure if DOT's Aeronautic Division has alerted DHS on this as it does seem to be worthy and notable that a Chinese company is training pilots here in the US. The runway for the airport utilizes the exact RoW of the former RR. The trail will need to be put on the north side of the runway between the runway and the Ware River. This too is a section of the MCRT that the East Quabbin Land Trust is working on and it would be useful for DOT to have a role in the effort to get the trail built next to the airport's runway. Once again, Mass DOT won't need to be 'inventing the wheel' as there are other places around the country that provide examples.

VOLUME 3: RUTLAND TO HUDSON

As you've seen, each volume has a different issue where complications and difficulties arise. Volume 3's issue is mostly related to issues in the municipal and state realm where the rules governing both the sale of former railroad corridor and construction near or on top of former railroad corridor have been ignored, never known about, or creatively gone around by putting in a pop-up agency that operates outside of the rules governing the public interest in this realm. And as an extra complication, there is a boundary in Berlin where this is the western most ownership of the MBTA and the B&M RR connects and continues west to Clinton.

* Just in the 21st century alone, there have been two instances where the B&M RR was approached by adjacent land owners in Berlin wanting to purchase short sections of the RoW. The first one was in 2006 when I was alerted by someone in the state government that the municipality wasn't stepping up to block the sale. I went into town and started asking questions. The town had no idea of the pending sale and did quickly move to buy the 700 feet at question, at that time. The other instance was a few years later in about 2010 when a Select-woman in town wanted to purchase a section of the corridor to take down the elevated RoW passing through her front yard. The town also purchased that segment—preserving it for the future trail. These sort of purchases should also be eligible for the special emergency fund for communities that don't have readily available funds.

* Also in 2006, there was a sale of about 30' of the MBTA owned section of the RoW. Here, a diamond-tipped cut-off saw was used to cut the section of track and ties and drag it off to the side, bulldoze out the berm, and creating a driveway to build a house. This was done under the watchful eyes of the MBTA's privatized RE department who a few years earlier, told me to my face that they'd never, ever sell across a RoW that would create a buildable lot. I stumbled onto this 'situation', took several pix of it and sent it to the T's privatized RE Dept and told them that they needed to lease the Wayside segment (the T owned segment) to DCR to make it a trail. A few months later, they did offer up a lease to DCR. A few years later, I was contacted by the home-owner asking why it was taking so long to get the trail built.

* Around 2017, a parcel of land —landlocked behind the dead railroad in Berlin came on the market and for a long time, it never gathered any interest. Until around 2018, when it went under-contract to be sold. The pending deal was conditional on getting an easement across the dead RR corridor. I thought, no problem, we'll just show up at the hearing and either block the sale or ensure an accommodation for the trail. This section of corridor was just east of the east abutment for the long gone bridge over the Five Corners section of Berlin—along West St. This was west of the Coburn Road crossing. East of Coburn Road, it was well known to be owned by the MBTA. West of Coburn Road, it was always assumed to be owned by the B&MRR. The B&M generally took the rails out when trains stopped running because they knew that the train would never be back. The T always leaves the rails in place. There were were no rails west of Coburn Road. But it turns out that the T owns the RoW west of Coburn Road—and the MBTA's privatized RE Dept apparently doesn't follow the same rules that govern private sector railroads. There was no public notification of the attempt by the developer wanting to

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buy a section of the RR RoW that would create frontage for the acreage on the other side of the dead RR. No public hearing? No problem. The privatized RE Dept of the T merely quietly, and privately, canvasses the same people within state agencies who would be notified in a genuine 161C or 40/54A hearing, but without the possibility of the public even ever knowing about it. Easy peasy. Shocking but true.

The next step to preserve the integrity of the corridor would be to have a genuine 40-54A hearing. That was going to be interesting because the town of Berlin had never, ever held a 40-54A hearing. Not in over 40 years with plenty of situations where one should have been held. Another example of bad over-sight by the office inside DOT.

So I went to the hearing for the Berlin Planning Board to alert of them of the need for the 40-54A hearing and how this development might negatively impact the coming trail. Needless to say, the Planning Board members were stunned to learn of the 40-54A program and the developer, a Mr. Gould was outraged to learn of mechanism that ostensibly protects former RR corridor. Never the less, a 40-54A hearing was arranged, but no one came to speak about the coming trail because no one really knew that the public hearing took place. Unless you happened to be reading the legal notices in the Worcester Telegram and Gazette. This is of course much different from the standard, 21st century public reporting process within EOEEA called MEPA where there is a bi-monthly web-based posting of all hearings about various kinds of development, all over the state. If the program within DOT was moved to EOEEA, there'd be greater awareness, transparency and less opaqueness.

Here's a short list of easy to do's for the state to take the lead on, that will not only expedite the buildout of this corridor, but will make it easier to preserve and protect former railroad corridor across the state. Don't forget, when the state bought hundreds of miles of dead corridors in the 1970s, they had no idea what they could be used for. Now we know what benefit these are to have operational as linear parks right where people live, work, and play. And as New York knows, these projects bring hundreds of millions of dollars to the state.

1. **Set up a quick-action emergency fund of \$500K** that would allow communities to quickly buy former railroad corridor and later reimburse the Commonwealth. Make this funding available also through the 161C process as well.
2. **Move the oversight of the 161C and 40-54A programs out of DOT's Rail and Transit office.** Move these programs into somewhere within the EOEEA secretariat. Don't forget, that when these programs were created in the mid-70s there was not yet any real environmental or protecting agencies within the state government. There is nothing within the psyche or DNA of a DOT anywhere in the US that has any protecting mindset. In Mass, the EOEEA does. These programs need to be a standard part of MEPA's disclosure process.
- 2A. **Moving it out of DOT won't be hard.** It is only a few staffers really. Over 20 years ago, the MBTA's RE office was moved overnight, enmass to a new office on Winthrop St where they set up shop under the flag of Transit Realty Associates. More recently, the state has moved it away from TRA to a new firm—GreyCo. There have been sales of former RR corridor—outside the purview of 161C and 40-54A. All sales of former railroad corridor, whether owned by a private sector railroad or a public RR—or a utility operating in Massachusetts who owns former RR will need to be under the eye of this EOEEA-based, future, protective office.
3. **The dormant RR in Bondville needs to be bought by the state** and working with the state's leasee, find a satisfactory way to get through the plastic pellet transloading facility. Both tasks are only going to happen with the DOT taking the lead.
4. **Stakeholders on the Governor's Trails Team needs to be expanded.** National Grid needs to be one of the stake holders at Trails Team meetings. Other necessary additions should be the Mass Office of Travel & Tourism, and the lead staffer on the relocated office handling 161C and 40-54A issues.